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Proposed Legislation and Regulations Relating to Ships' Stores

Notice of Ways and Means Motion, Draft Regulations and Explanatory Notes

Published by
The Honourable Martin Cauchon, P.C., M.P.
Minister of National Revenue
and
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Secretary of State
(International Financial Institutions)

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Government
of Canada Gouvernement
du Canada



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Notice of Ways and Means Motion to amend the *Customs Tariff* and the *Excise Tax Act* and related laws relating to ships' stores

That it is expedient to amend the *Customs Tariff* and the *Excise Tax Act* and related laws as follows:

PART 1

ENABLING PROVISIONS AND REGULATIONS

1986, c. 1

Customs Act

1. (1) Paragraph 164(1)(c) of the *Customs Act*, as enacted by chapter 1 of the statutes of Canada, 1986, is replaced by the following:

(c) designating certain classes of goods as ships' stores for use on board a conveyance of a prescribed class, including a class based on

(i) the physical attributes, functions or legal descriptions of conveyances,

(ii) areas within which conveyances voyage,

(iii) requirements, or limitations, related to voyages of conveyances, or

(iv) any combination of the bases mentioned in subparagraphs (i) to (iii);

(c.1) limiting the quantity of goods referred to in paragraph (c) that may be used as described in that paragraph during any prescribed period or periods;

(2) Subsection (1) is deemed to have come into force on November 10, 1986.

Customs Tariff

1995, c. 41, s. 55(1)

2. (1) Paragraph 95(1)(g) of the *Customs Tariff*, as enacted by subsection 55(1) of chapter 41 of the Statutes of Canada, 1995, is replaced by the following:

(g) designating certain classes of goods as ships' stores for use on board a conveyance of a prescribed class, including a class based on

- (i) the physical attributes, functions or legal descriptions of conveyances,
- (ii) areas within which conveyances voyage,
- (iii) requirements, or limitations, related to voyages of conveyances, or
- (iv) any combination of the bases mentioned in subparagraphs (i) to (iii);

(g.1) limiting the quantity of goods referred to in paragraph (g) that may be used as described in that paragraph during any prescribed period or periods;

(2) Subsection (1) is deemed to have come into force on January 1, 1996.

1997, c. 36

Customs Tariff

3. (1) Paragraph 99(g) of the *Customs Tariff* is replaced by the following:

(g) designating certain classes of goods as ships' stores for use on board a conveyance of a prescribed class, including a class based on

- (i) the physical attributes, functions or legal descriptions of conveyances,
- (ii) areas within which conveyances voyage,

- (iii) requirements, or limitations, related to voyages of conveyances, or
- (iv) any combination of the bases mentioned in subparagraphs (i) to (iii);

(g.1) limiting the quantity of goods referred to in paragraph (g) that may be used as described in that paragraph during any prescribed period or periods;

(2) Subsection (1) is deemed to have come into force on January 1, 1998.

R.S.C. 1970, c. E-13

Excise Tax Act

1986, c. 9, s. 21(3)

4. (1) Subsection 35(2.3) of the *Excise Tax Act*, as enacted by subsection 21(3) of chapter 9 of the Statutes of Canada, 1986, is replaced by the following:

Regulations

(2.3) The Governor in Council may make regulations

(a) designating certain classes of goods as ships' stores for use on board a conveyance of a prescribed class, including a class based on

- (i) the physical attributes, functions or legal descriptions of conveyances,
- (ii) areas within which conveyances voyage,
- (iii) requirements, or limitations, related to voyages of conveyances, or
- (iv) any combination of the bases mentioned in subparagraphs (i) to (iii); and

(b) limiting the quantity of goods referred to in paragraph (a) that may be used as described in that paragraph during any prescribed period or periods.

(2) Subsection (1) is deemed to have come into force on November 10, 1986.

Excise Tax Act

R.S., c. 7 (2nd Supp.), s. 21(3);
1993, c. 25, s. 58

5. (1) Subsection 59(3.2) of the *Excise Tax Act* is replaced by the following:

Regulations

(3.2) The Governor in Council may make regulations

(a) designating certain classes of goods as ships' stores for use on board a conveyance of a prescribed class, including a class based on

(i) the physical attributes, functions or legal descriptions of conveyances,

(ii) areas within which conveyances voyage,

(iii) requirements, or limitations, related to voyages of conveyances, or

(iv) any combination of the bases mentioned in subparagraphs (i) to (iii); and

(b) limiting the quantity of goods referred to in paragraph (a) that may be used as described in that paragraph during any prescribed period or periods.

(2) Subsection (1) is deemed to have come into force on November 10, 1986.

SOR/86-878

Ships' Stores Regulations

**Valid and effective
from
November 10, 1986**

6. The *Ships' Stores Regulations* made by Order in Council P.C. 1986-1856 of August 13, 1986 and registered as SOR/86-878, as amended, are deemed to have been validly made and everything done under, and all consequences flowing from, those Regulations

since November 10, 1986 are deemed effective as if those Regulations were so made.

Ships' Stores Regulations

Valid and effective
from
January 1, 1996

7. The *Ships' Stores Regulations* made by Order in Council P.C. 1995-2248 of December 28, 1995, and registered as SOR/96-40, are deemed to have been validly made and everything done under, and all consequences flowing from, those Regulations since January 1, 1996 are deemed effective as if those Regulations were so made.

Regulations

Retroactive use of
enabling authority

8. (1) A regulation, or any provision of a regulation, made under paragraph 99(g) or (g.1) of the *Customs Tariff*, as enacted by subsection 3(1), or under paragraph 59(3.2)(a) or (b) of the *Excise Tax Act*, as enacted by subsection 5(1), may, if it so provides, be retroactive and have effect for any period before it is made that begins on or after June 1, 2002.

Cessation

(2) Subsection (1) ceases to have effect on January 1, 2004.

PART 2

TRANSITIONAL REBATE

R.S., c. E-15

Excise Tax Act

9. The *Excise Tax Act* is amended by adding the following after section 68.4:

Definitions

68.5 (1) The definitions in this subsection apply in this section.

"eligible ship"

« navire admissible »

"eligible ship" means a ship that is a tug, ferry or passenger ship engaged in trade on an inland voyage and that

- (a) is not proceeding outside Canada other than on Lake Michigan or to a part of any lake or river included in the inland waters of Canada that lies within the United States; and
- (b) is not engaged in international trade.

"inland voyage"

« voyage en eaux internes »

"inland voyage" means a voyage (other than a minor waters voyage)

- (a) on the inland waters of Canada, together with those parts of any lake or river included in the inland waters of Canada that lie within the United States; or

- (b) on Lake Michigan.

"inland waters of Canada"

« eaux internes du Canada »

"inland waters of Canada" means all the rivers, lakes and other navigable fresh waters within Canada, and includes the St. Lawrence River as far seaward as a straight line drawn

- (a) from Cap des Rosiers to West Point Anticosti Island; and
- (b) from Anticosti Island to the north shore of the St. Lawrence River along the meridian of longitude sixty-three degrees west.

"minor waters of Canada"

« eaux secondaires du Canada »

"minor waters of Canada" means all inland waters of Canada (other than Lake Ontario, Lake Erie, Lake Huron including Georgian Bay, Lake Superior and the St. Lawrence River east of a line drawn from Father Point to Point Orient) and includes all bays, inlets and harbours of or on those lakes or Georgian Bay.

"minor waters

voyage"

« voyage en eaux

secondaires »

"minor waters voyage" means a voyage within the minor waters of Canada together with those parts of any lake or river included in the minor waters of Canada that lie within the United States.

"rebate period"

« période de remise »

"rebate period" means the period

- (a) that begins on June 1, 2002 and that ends on December 31, 2002;
- (b) that begins on January 1, 2003 and that ends on December 31, 2003; or
- (c) that begins on January 1, 2004 and that ends on December 31, 2004.

Rebate in respect of fuel for eligible ship

(2) If a person purchases or intends to purchase fuel that is, or is to be, used by the person to operate or maintain an eligible ship during a rebate period, subject to this Part, the Minister shall, on application by the person, pay to the person a rebate for the period determined in accordance with subsection (3).

Determination of rebate

(3) The amount of the rebate payable to a person under subsection (2) for a rebate period is equal to

(a) if the amount applied for is based on an estimate, acceptable to the Minister and made within any period specified by the Minister, of the quantity of fuel that is, or is to be, purchased after May 2002 by the person and is, or is to be, used by the person to operate or maintain an eligible ship during the rebate period, the total amount of tax under Part III that would be imposed on that fuel; or

(b) in any other case, the total amount of tax under Part III imposed on fuel that is purchased by the person after May 2002 and is used

by the person to operate or maintain an eligible ship during the rebate period.

One application per period

(4) A person shall not file more than one application (other than an application referred to in paragraph (8)(b)) under this section for any rebate period.

Reconciliation report

(5) If a person is paid a rebate for a rebate period based on an estimate referred to in paragraph (3)(a), the person shall, not later than 60 days after the end of the period, file with the Minister in prescribed manner a reconciliation report in prescribed form that indicates

- (a) the amount of the rebate paid to the person; and
- (b) the amount of tax under Part III imposed on the fuel purchased by the person after May 2002 and used by the person to operate or maintain an eligible ship during the rebate period.

Extension for filing

(6) The Minister may at any time, in writing, extend the time required by subsection (5) for filing a reconciliation report.

Effect of extension for filing

(7) If the Minister has, under subsection (6), extended the time required by subsection (5) for filing a reconciliation report

- (a) the report shall be filed within the time so extended;
- (b) any amount of excess rebate that is required to be paid within the time otherwise required by subsection (9) shall be paid within the time so extended; and
- (c) any interest or penalty payable under this section shall be calculated on the basis that the person has until the expiry of the period so extended to file the reconciliation report.

**Additional amount
payable to rebate
recipient**

(8) If a person files a reconciliation report for a rebate period and the amount referred to in paragraph (5)(b) exceeds the amount referred to in paragraph (5)(a) in respect of the period

- (a) the Minister shall pay to the person an amount equal to that excess amount; and
- (b) the filing of the reconciliation report is deemed to be an application to the Minister for payment of that excess amount.

**Liability for excess
rebate and interest
up to due date of
reconciliation**

(9) If the rebate paid to a person for a rebate period is determined on the basis of an estimate referred to in paragraph (3)(a) and the amount paid exceeds the amount referred to in paragraph (5)(b) in respect of the period, the person shall pay to the Receiver General

- (a) on or before the day on or before which the reconciliation report for the rebate period is required to be filed, an amount (in this section referred to as the "excess rebate") equal to that excess amount; and
- (b) interest at the prescribed rate, in respect of each month or fraction of a month in the period that begins on the first day following the day on which the rebate is paid to the person and that ends on the earlier of the day the total of the excess rebate and all interest under this paragraph is paid and the day on or before which the reconciliation report is required to be filed, calculated on the total of the amount of the excess rebate that has not been paid to the Receiver General, and of the amount of interest that is outstanding, in the month or fraction of a month.

Deemed tax liability

(10) The portion of the total of the excess rebate payable by a person in respect of a rebate period, and of the interest payable by the person under paragraph (9)(b), that is outstanding at the end of the day on or before which the reconciliation report for the period is required to be filed is deemed to be an amount of tax payable under this Act that is required to be, and that has not been, paid by the person on or before that day.

**Interest and penalty
on deemed tax**

(11) A person who is in default in paying an amount of tax referred to in subsection (10) shall pay to the Receiver General interest at the prescribed rate, and penalty of one-half of one percent, in respect of each month or fraction of a month in the period that begins on the first day following the day on or before which the reconciliation report is required to be filed and that ends on the day the total of that tax is paid, calculated on the total of the tax, penalty and interest outstanding in that month or fraction of a month.

**Time for paying
interest and penalty**

(12) Any interest under paragraph (9)(b) or subsection (11) and any penalty under that subsection shall be paid not later than the last day of the month in respect of which the interest or penalty was calculated.

**Interest and penalty
under ten dollars**

(13) No interest under paragraph (9)(b) or subsection (11) and no penalty under that subsection is required to be paid if the person who would otherwise be liable to pay the interest or the penalty pays all taxes under this section payable by the person and, on the payment, the total interest and penalty otherwise payable by the person under those provisions is less than ten dollars.

Restriction

(14) The Minister shall not, at a particular time, pay an amount to a person under this section unless the person has

(a) filed with the Minister all reconciliation reports for rebate periods ending before that time for which a rebate was paid to the person that was based on an estimate referred to in paragraph (3)(a); and

(b) paid all excess rebates in respect of rebate periods ending before that time and all interest and penalty under this section that have accrued to that time.

Limitation period

(15) An application may not be made under subsection (2) after December 31, 2006.

PART 3
RELATED AMENDMENTS

R.S., c. E-14

Excise Act

**Replacement of
"approvisionnements
de navire" with
"provisions de
bord"**

10. The French version of the *Excise Act* is amended by replacing the words "approvisionnements de navire" with the words "provisions de bord" in the following provisions, with any grammatical modifications that the circumstances require:

- (a) paragraph 52.1(e);
- (b) subparagraph 58(2)(a)(i);
- (c) clauses 58.1(6)(a)(i)(C) and (E);
- (d) paragraph 173(3)(a);
- (e) subparagraph 202(3)(c)(iii);
- (f) section 216;
- (g) clauses 239.1(2)(a)(i.1)(B) and (iii)(A) and (B) and subparagraph 239.1(2)(b)(vi); and
- (h) paragraph 240(2)(f) and subparagraphs 240(3)(a.1)(ii) and (3)(c)(i) and (ii).

Excise Tax Act

**Replacement of
"approvisionnements
de navire" with
"provisions de
bord"**

11. The French version of the *Excise Tax Act* is amended by replacing the words "approvisionnements de navire" with the words "provisions de bord" in the following provisions:

- (a) paragraph 23.11(1)(c);**
- (b) subsection 68.17(1); and**
- (c) paragraph 70(1)(b).**

SOR/78-376

Ships Suppliers Drawback Regulations

12. The *Ships Suppliers Drawback Regulations* are repealed.

Draft Amendments to the *Ships' Stores Regulations*

CUSTOMS TARIFF EXCISE TAX ACT

AMENDMENTS

1. (1) The definition "inland waters ship" in section 2 of the *Ships' Stores Regulations* is replaced by the following:

"inland waters ship" means a ship, other than an ineligible ship, engaged in trade on an inland voyage; (*navire d'eaux internes*)

(2) Section 2 of the Regulations is amended by adding the following in alphabetical order:

"ineligible ship" means a ship that is a tug, ferry or passenger ship engaged in trade on an inland voyage and that

(a) is not proceeding outside Canada other than on Lake Michigan or to a part of any lake or river included in the inland waters of Canada that lies within the United States, and

(b) is not engaged in international trade; (*navire non admissible*)

"inland voyage" means a voyage, other than a minor waters voyage,

(a) on the inland waters of Canada, together with those parts of any lake or river included in the inland waters of Canada that lie within the United States, or

(b) on Lake Michigan; (*voyage en eaux internes*)

"inland waters of Canada" means all the rivers, lakes and other navigable fresh waters within Canada, and includes the St. Lawrence River as far seaward as a straight line drawn

(a) from Cap des Rosiers to West Point Anticosti Island, and

(b) from Anticosti Island to the north shore of the St. Lawrence River along the meridian of longitude sixty-three degrees west; (*eaux internes du Canada*)

"minor waters of Canada" means all inland waters of Canada (other than Lake Ontario, Lake Erie, Lake Huron including Georgian Bay, Lake Superior and the St. Lawrence River east of a line drawn from Father Point to Point Orient) and includes all bays, inlets and harbours of or on those lakes or Georgian Bay; (*eaux secondaires du Canada*)

"minor waters voyage" means a voyage within the minor waters of Canada together with those parts of any lake or river included in the minor waters of Canada that lie within the United States; (*voyage en eaux secondaires*)

Coming into Force

2. These Regulations come into force or are deemed to have come into force on June 1, 2002.

Explanatory Notes

Explanatory Notes

Clauses 1 to 5

Authority to Make Regulations

Customs Act, 1986, s. 164(1); Customs Tariff, 1995, s. 95(1);
Customs Tariff, 1997, s. 99; Excise Tax Act, 1986, s. 35(2.3); Excise
Tax Act, 1985, s. 59(3.2)

On May 10, 2001, the Federal Court of Appeal ruled that the *Ships' Stores Regulations*, which are made under the *Excise Tax Act* and *Customs Tariff*, went beyond the scope of their enabling authority and would cease to have effect as of October 1, 2001. These Regulations prescribe the scope of relief from duties and taxes on certain goods for use as ships' stores on prescribed classes of conveyances. The Court found that the criteria used in the Regulations to define the designated classes of vessels are not supported by the prescribing authority in the Acts.

The amendments under clauses 1 to 5 to the various customs legislation and the *Excise Tax Act* broaden the authority to designate by regulation classes of vessels based on criteria that may include the physical attributes, functions or legal descriptions of conveyances, areas within which conveyances voyage or any requirements or limitations related to the voyage of conveyances.

To remove any uncertainty with respect to the treatment of past transactions and to ensure that the relief provided is not extended beyond the scope of the Regulations, these changes are made retroactive to the later of November 10, 1986, the date the provisions identified by the court were incorporated into the *Ships' Stores Regulations*, and the date the particular enabling provision was introduced into the relevant Act.

Clause 1 amends paragraph 164(1)(c) of the *Customs Act*, as it read on November 10, 1986. Prior to January 1, 1996, this paragraph provided authority to make regulations relating to ships' stores. It was repealed when this authority for making these regulations was transferred to the *Customs Tariff*. The amendment to paragraph 164(1)(c) comes into force on November 10, 1986.

Clause 2 amends paragraph 95(1)(g) of the *Customs Tariff*, as that Act read on January 1, 1996, and adds new paragraph 95(1)(g.1). From 1996 to 1997, paragraph (g) provided authority to make regulations designating goods that could be supplied as ships' stores and the class of conveyance on which such goods could be used. It also provided authority to limit the quantity of goods that could be used as ships' stores, an authority that is transferred in this amendment to new paragraph 95(1)(g.1). Effective January 1, 1998, paragraph 95(1)(g) was renumbered as paragraph 99(g) in the newly enacted *Customs Tariff*. The amendments to subsection 95(1) come into force on January 1, 1996, the date on which the authority for making regulations respecting ships' stores was transferred from the *Customs Act* to the *Customs Tariff*.

Clause 3 amends paragraph 99(g) of the *Customs Tariff*. This paragraph provides the existing authority under the Tariff to make regulations relating to ships' stores. The existing authority relating to limiting the quantity of goods for use as ships' stores is transferred to new paragraph 99(g.1). These amendments come into force on January 1, 1998, the effective date of section 99 of the existing *Customs Tariff*.

Clause 4 amends subsection 35(2.3) of the *Excise Tax Act*. Prior to the statutory revision of 1985, this subsection provided the authority to make regulations relating to ships' stores under the *Excise Tax Act*. The subsection was renumbered as subsection 59(3.2) in the statutory revision of 1985. The amendments to subsection 35(2.3) come into force on November 10, 1986.

Clause 5 amends subsection 59(3.2) of the *Excise Tax Act*. This subsection provides the existing authority under the Act to make regulations relating to ships' stores. The amendments to subsection 59(3.2) come into force on November 10, 1986.

Clause 6

Retroactive Effect of Ships' Stores Regulations

Clause 6 provides that the *Ships' Stores Regulations* made in 1986, and everything done under and all consequences flowing from them, are valid since November 10, 1986, the date on which the regulations

came into force. This provision is intended to remove any uncertainty with respect to the treatment of past transactions and is effective on Royal Assent.

Clause 7

Retroactive Effect of *Ships' Stores Regulations*

Clause 7 provides that the existing *Ships' Stores Regulations*, and everything done under and all consequences flowing from them, are valid since January 1, 1996, the date on which the regulations came into force. This provision is intended to remove any uncertainty with respect to the treatment of past transactions and is effective on Royal Assent.

Clause 8

Retroactive Effect of Regulations Made Between June 1, 2002 and January 2004

Clause 8 provides that amendments to the *Ships' Stores Regulations* that are made after June 1, 2002 can be made on a retroactive basis, provided they do not go back further than that date and are made before 2004. The date of June 1, 2002 coincides with the effective date of proposed changes to those Regulations that limit the scope of relief for ships' stores for certain classes of vessels. This amendment is effective on Royal Assent.

Clause 9

Transitional Rebate

Excise Tax Act 68.5

New section 68.5 provides a transitional rebate of an amount equal to the federal excise tax on fuel used in certain ships that, following the coming into force of amendments to the *Ships' Stores Regulations*, will no longer qualify for duty and tax relief under those Regulations.

The amendments required to implement the transitional rebate in new section 68.5 are effective on Royal Assent.

Subsection 68.5(1) Definitions

Subsection 68.5(1) defines certain terms and expressions that are used for purposes of the transitional rebate under new section 68.5. These definitions, other than the definitions “eligible ship” and “rebate period”, are similar to definitions of these terms in the *Canada Shipping Act* and are intended to have the same meaning as in that Act.

“Eligible ship” is defined as a tug, ferry or passenger ship that is engaged in trade on an inland voyage that is not proceeding outside of Canada, except on Lake Michigan or to an area in the United States that is included in the definition of an inland voyage, and is not engaged in international trade. The term is used in new subsection 68.5(2), under which a transitional rebate is provided for persons purchasing fuel for use in operating or maintaining eligible ships during a rebate period.

“Inland Voyage” is defined as a voyage, other than a minor waters voyage, on the inland waters of Canada, together with those parts of any lake or river included in the inland waters of Canada that lie within the United States, or on Lake Michigan. The term is used in the definition “eligible ship”, which is in turn relevant to determining who qualifies for a transitional rebate under the section.

“Inland waters of Canada” are defined as all the rivers, lakes and other navigable fresh waters within Canada. It includes the St. Lawrence River as far seaward as a straight line drawn from Cap des Rosiers to West Point Anticosti Island, and from Anticosti Island to the north shore of the St. Lawrence River along the meridian of longitude sixty-three degrees west. This term is used in the definition “inland voyage”.

“Minor waters of Canada” are defined as all inland waters of Canada, other than Lake Ontario, Lake Erie, Lake Huron including Georgian Bay, Lake Superior and the St. Lawrence River east of a line drawn from Father Point to Point Orient. It includes all bays, inlets and harbours of or on those lakes or Georgian Bay. This term is used in the definition “minor waters voyage”.

"Minor waters voyage" is defined as a voyage within the minor waters of Canada together with those parts of any lake or river included in the minor waters of Canada that lie within the United States. This term is used in the definition "inland voyage".

"Rebate period" is defined as the period from June 1, 2002 to December 31, 2002, and as the calendar year for 2003 and 2004. This definition defines the three separate periods for which a rebate under the section is available.

Subsection 68.5(2) Rebate in respect of Fuel for Eligible Ship

Subsection 68.5(2) provides for the payment, on the application of a person, of a rebate in respect of fuel purchased on or after June 1, 2002 for use in an eligible ship (as defined in subsection 68.5(1)) during a rebate period. The application is subject to the rules set out in section 72 of the Act.

Subsection 68.5(3) Determination of Rebate

Subsection 68.5(3) provides that a rebate under this section may be determined based on an applicant's estimate of the quantity of fuel purchased after May 2002 and used or to be used in an eligible ship in the rebate period, or on the actual fuel so used. In the former case, the estimate must be acceptable to the Minister of National Revenue as reasonable and be made in a period specified by the Minister.

Subsection 68.5(4) One Application per Period

Subsection 68.5(4) provides that a person cannot file more than one application for a rebate under this section for any rebate period.

Subsection 68.5(5) Reconciliation Report

Subsection 68.5(5) requires a person who receives a rebate based on an estimate to file a reconciliation report indicating the amount of the rebate received and the amount of excise tax imposed on fuel actually used by the person in an eligible ship during the rebate period. The report must be made in prescribed form and be filed in prescribed manner with the Minister of National Revenue not later than 60 days after the end of the relevant rebate period.

Subsection 68.5(6) Extension for Filing

Subsection 68.5(6) allows the Minister to extend the time for filing a reconciliation report under subsection (5).

Subsection 68.5(7) Effect of Extension for Filing

Subsection 68.5(7) provides that, if the Minister has extended the time for filing a person's reconciliation report, the report shall be filed within the time so extended. Further, the due date for payment of any amount payable under subsection (9) as an excess rebate, and any interest or penalty under the section, shall be determined on the basis that the person has until the expiry of the period so extended to file the report. This is consistent with other provisions of the Act where, in exceptional circumstances, an extension of time for filing is granted.

Subsection 68.5(8) Additional Amount Payable to Rebate Recipient

Subsection 68.5(8) provides that, where a rebate recipient has filed a reconciliation report and the rebate paid to the person on the basis of an estimate is less than the rebate that would have been determined based on the actual fuel usage, the Minister shall pay the difference to the person. For this purpose, the reconciliation report is considered to be an application under section 72.

Subsection 68.5(9) Liability for Excess Rebate and Interest Up To Reconciliation Date

Subsection 68.5(9) provides that if a rebate based on an estimate is paid to an applicant and the rebate exceeds the amount of tax on fuel used during the rebate period in an eligible ship, the amount of the excess rebate must be repaid to the Receiver General on or before the due date for the reconciliation report. Furthermore, interest is payable on the excess rebate. That interest accrues and compounds monthly from the day the excess rebate is paid to the person to the earlier of the due date for the report and the day the total of the excess rebate and all interest under this subsection is paid.

Subsection 68.5(10) Deemed Tax Liability

Subsection 68.5(10) provides that any excess rebate and interest under paragraph (9)(b) that is outstanding on the day the reconciliation report is required to be filed will be considered to be tax payable under the Act that was required to be paid on or before that day.

Subsection 68.5(11) Interest and Penalty on Deemed Tax

Subsection 68.5(11) provides that, upon default of payment of the deemed tax owing under subsection (10), an applicant shall pay interest and penalty on the total of that tax, and accrued penalty and interest, that is outstanding for each month or fraction of a month in the period beginning on the due date for the reconciliation report and ending on the day the total of that tax, penalty and interest is paid.

Subsection 68.5(12) Time for Paying Interest and Penalty

Subsection 68.5(12) provides that any interest or penalty payable under this section is required to be paid no later than the last day of the month in respect of which it was calculated.

Subsection 68.5(13) Interest and Penalty under Ten Dollars

Subsection 68.5(13) provides that interest or penalty otherwise payable under this section is not payable if all amounts that are deemed to be tax under this section are paid and if, at the time of payment, the sum of interest and penalty owing is less than \$10.

Subsection 68.5(14) Restriction

Subsection 68.5(14) provides that a rebate under subsection (2), or an additional payment under subsection (8), shall not be paid to a person unless the person has filed all reconciliation reports for prior rebate periods and has paid all amounts of tax under subsection (10) and all interest and penalty that have accrued.

Subsection 68.5(15) Limitation Period

Subsection 68.5(15) provides that December 31, 2006 is the final date for filing applications under this section.

Clause 10

Replacement of “approvisionnements de navire” with “provisions de bord”

Excise Act

52.1; 58; 58.1; 173; 202; 216; 239.1 and 240 of the French Version

The phrases “approvisionnements de navire” and “provisions de bord” are used interchangeably in the French version of the *Excise Tax Act* as the equivalent of the English phrase “ships' stores”. To ensure consistency in terminology, the phrase “approvisionnements de navire” is replaced with the phrase “provisions de bord” in the French version of the Act, the phrase more commonly used as the equivalent of the English phrase “ships' stores”. These amendments are effective on Royal Assent.

Clause 11

Replacement of “approvisionnements de navire” with “provisions de bord”

Excise Tax Act

23.11; 68.17 and 70 of the French Version

The phrases “approvisionnements de navire” and “provisions de bord” are used interchangeably in the French version of the *Excise Act* as the equivalent of the English phrase “ships' stores”. To ensure consistency in terminology, the phrase “approvisionnements de navire” is replaced with the phrase “provisions de bord” in the French version of the Act, the phrase more commonly used as the equivalent of the English phrase “ships' stores”. These amendments are effective on Royal Assent.

Clause 12**Ships Suppliers Drawback Regulations**

The *Ships Suppliers Drawback Regulations* are repealed because they have been superseded by other regulations. This amendment is effective on Royal Assent.

Explanatory Note to Draft Amendments to *Ships' Stores Regulations*

The *Ships' Stores Regulations* provide relief from duties and taxes for goods used on board ships and aircraft in international service. The definition of "inland waters ship" in the existing Regulations is amended and a number of new definitions pertinent to ships' stores relief for maritime vessels are added.

The effect of these changes is to limit, effective June 1, 2002, duty and tax relief provided for ships' stores used on tugs, ferries and passenger ships operating in the Great Lakes and lower St. Lawrence River to goods used on those vessels that are engaged in international trade on international voyages.

Those ship operators affected by this narrowing of duty and tax relief will be eligible for the temporary rebate introduced by amendments to the *Excise Tax Act*.

